



City of Somerville

## PLANNING BOARD

City Hall 3<sup>rd</sup> Floor, 93 Highland Avenue, Somerville MA 02143

### DECISION

2022 JUN 16 A 10:51

**PROPERTY ADDRESS:** 518-524 Somerville Ave  
**CASE NUMBER:** P&Z 21-063  
**OWNER:** GUO JIE QIU  
**OWNER ADDRESS:** 524 Somerville Avenue, Somerville, MA 02143  
**DECISION:** Approved with Conditions (Special Permit)  
**DECISION DATE:** June 2, 2022

CITY CLERK'S OFFICE  
SOMERVILLE, MA

This decision summarizes the findings made by the Planning Board (the "Board") regarding the development review application submitted for 518-524 Somerville Ave.

### LEGAL NOTICE

Nuestra, LLC, DBA The Boston Garden Dispensary, proposes to establish a Cannabis Retail Sales use in the Mid-Rise 4 District, which requires a Special Permit.

### RECORD OF PROCEEDINGS

On May 19, 2022, the Planning Board held a public hearing advertised in accordance with M.G.L. 40A and the Somerville Zoning Ordinance. Present and sitting at the public hearing were Board Members Chair Michael Capuano, Vice Chair Amelia Aboff, Clerk Erin Geno, Jahan Habib, and Alternate Debbie Howitt Easton. The Applicant provided an overview of the proposal. The Board, Applicant, and Staff discussed the proposed loading zone in front of the property on Somerville Ave. The Board asked whether the site is within three hundred feet (300') of a school; Staff and the Applicant both stated that they did not believe it was but would reconfirm. The Board continued the public hearing.

On June 2, 2022, the Board resumed the public hearing. Present and sitting at the public hearing were Board Members Vice Chair Amelia Aboff, Clerk Erin Geno, Jahan Habib, and Alternate Debbie Howitt Easton. The Board directed the Applicant to discuss with the Director of Mobility how best to use the space on Somerville Ave in front of this building, including possibly using it as a mixture of a loading zone, cab stand, ride share zone, and/or parking. Staff and the Applicant confirmed for the Board that there are no educational uses within 300' of the proposal, as required by the SZO.

### SPECIAL PERMIT FINDINGS

In accordance with the Somerville Zoning Ordinance, the Board may approve or deny a special permit upon making findings considering, at least, each of the following:

1. *The comprehensive plan and existing policy plans and standards established by the City.*

The Board finds that the proposal will help to achieve the following goals from SomerVision 2040, the City's Comprehensive Master Plan:

- Promote municipal financial self-determination and reduce fiscal dependence on state aid and residential taxes and fees.
- Make Somerville a regional employment center with a mix of diverse and high-quality jobs.

In addition, the proposal will help achieve the goals of the Union Square Neighborhood Plan, including the following:

- The City should utilize land use planning and zoning to increase the commercial tax base.
- The City should promote job creation, with a goal of reaching a one-to-one ratio between jobs and resident workforce in Somerville within the next 20 years.

*2. The intent of the zoning district where the property is located.*

The Board finds that the proposal is consistent with the intent of the MR4 zoning district which is, in part: "To create, maintain, and enhance areas appropriate for smaller scale, multi-use and mixed-use buildings and neighborhood serving uses."

*3. Capacity of the local thoroughfare network providing access to the site and impact on pedestrian, bicycle, and vehicular traffic and circulation patterns in the neighborhood.*

The Transportation Impact Study (TIS) submitted as part of this proposal indicates that the proposed use will not have a significant negative impact on pedestrian, bicycle, vehicular, or public transit networks in the surrounding area. To further reduce potential negative impacts, Nuestra proposed a number of transportation demand management strategies in their TIS; the Board finds that the implementation of these strategies, along with the additional strategies included here as conditions, will sufficiently mitigate negative impacts this project may have on the surrounding thoroughfare network.

*4. Location, visibility, and design of the principal entrance.*

The principal entrance is on a stretch of Somerville Ave, which is designated as a Pedestrian Street. The Applicant is proposing to create a new door on the right side of the Somerville Ave façade that customers will enter through, and will utilize an existing doorway on the left side of the Somerville Ave façade that customers will exit the sales floor through. The right-most door will be the principal entrance and will be marked by signage and a canopy. The windows into the waiting area on the right side will allow full visual access into that area, and the windows on the left side will use display cases to block the public's view of the sales floor.

## DECISION

Following public testimony, review of the submitted plans, and discussion of the statutorily required considerations, Vice Chair Aboff moved to approve the **SPECIAL PERMIT** to establish a Cannabis Retail Sales use. Clerk Geno seconded. The Board voted **4-0** to approve the permit, subject to the following conditions:

**Perpetual**

1. Approval is limited to Nuestra, LLC and is not transferable to any successor in interest.
2. This Decision must be recorded with the Middlesex South Registry of Deeds.
3. This permit is valid subject to Nuestra, LLC having a fully executed and active Host Community Agreement with the City of Somerville.
4. Retail sales to walk-in customers are prohibited. Customer visits must be by appointment only.
5. Any change to the means of sales requires a new Transportation Impact Study (TIS). The scope of the TIS must be approved by the Director of Mobility.
6. As voluntarily committed to in the TIS, Nuestra, LLC shall designate a TDM coordinator.
7. Nuestra, LLC shall commit to annual monitoring and reporting of the appointment-only recreational marijuana operations model. The annual report shall include at least the following information:
  - a. A statistically valid travel surveys of employees and customers
  - b. A status update on the implementation of all TDM measures.
8. Nuestra, LLC shall direct all deliveries to occur outside of 7:30am to 9:30am on weekdays; 4:30pm to 6:30pm on weekdays; and 11am to 1pm on Saturdays, to every extent practicable.
9. Nuestra, LLC shall post information about non-vehicular services available in the area on the website and in materials posted at the store.
10. As voluntarily committed to in the TIS, Nuestra, LLC shall post bus schedule information for employees in an easily accessible location.
11. Nuestra, LLC shall provide a TransitScreen (or its substantial equivalent) displaying real time MBTA and bike share information in a location that is visible to customers.
12. Nuestra, LLC shall provide incentives to customers who take non-vehicular or public transportation modes to the site.
13. Nuestra, LLC shall provide employees 100% subsidized Bluebikes public bikeshare memberships, subject to annual rate increases.
14. Nuestra, LLC shall provide employees 100% subsidized MBTA passes, or up to the federal maximum Qualified Transportation Fringe benefits per current U.S. Internal Revenue Code (\$270 per month in 2021), subject to annual increases.

**Prior to Building Permit**

1. The Applicant shall meet with the Director of Mobility to discuss adding a ride share pick-up/drop-off zone in close proximity to 518-524 Somerville Ave.
2. Two (2) additional short-term bicycle parking spaces must be provided in accordance with Section 11.1 Bicycle Parking of the Somerville Zoning Ordinance.

3. Nuestra LLC shall submit an updated Transportation Access Plan (TAP), subject to review and approval by the Director of Mobility, which identifies a loading area within three hundred (300) feet of 518-524 Somerville Ave sufficient to serve the largest delivery vehicle type anticipated for this use.
4. Traffic counts must be taken in the TIS study area during April, May, September, or October and submitted to the Mobility Division.
5. A copy of the recorded Decision stamped by the Middlesex South Registry of Deeds must be submitted to the Planning, Preservation & Zoning Division for the public record.
6. One (1) physical copy of the original application materials and one (1) digital and (1) physical copy of all required application materials reflecting any physical changes required by the Board, if applicable, must be submitted to the Planning, Preservation & Zoning Division for the public record.

Prior to Certificate of Occupancy

7. As voluntarily committed to in the TIS, Nuestra LLC shall conduct a Road Safety Audit of Somerville Ave between its intersection with Central St and with Properzi Way, inclusive of those intersections. The Director of Mobility may, at their discretion, waive this requirement.
8. A written narrative or descriptive checklist identifying the completion or compliance with permit conditions must be provided to the Inspectional Services Department at least ten (10) working days in advance of a request for a final inspection.

Attest, by the Planning Board:

Amelia Aboff, *Vice Chair*  
Jahan Habib  
Erin Geno  
Debbie Howitt Easton, *Alternate*

Sarah Lewis, Director of Planning, Preservation, & Zoning  
Office of Strategic Planning & Community Development

**CLERK'S CERTIFICATE**

Any appeal of this decision must be filed within twenty days after the date this notice is filed in the Office of the City Clerk, and must be filed in accordance with M.G.L. c. 40A, sec. 17 and SZO sec. 15.5.3.

In accordance with M.G.L. c. 40 A, sec. 11, no variance shall take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

Also in accordance with M.G.L. c. 40 A, sec. 11, a special permit shall not take effect until a copy of the decision bearing the certification of the City Clerk that twenty days have elapsed after the decision has been filed in the Office of the City Clerk and either that no appeal has been filed or the appeal has been filed within such time, is recorded in the Middlesex County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed Special Permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone.

The owner or applicant shall pay the fee for recording or registering. Furthermore, a permit from the Division of Inspectional Services shall be required in order to proceed with any project favorably decided upon by this decision, and upon request, the Applicant shall present evidence to the Building Official that this decision is properly recorded.

This is a true and correct copy of the decision filed on \_\_\_\_\_ in the Office of the City Clerk, and twenty days have elapsed, and

**FOR VARIANCE(S) WITHIN**

\_\_\_\_\_ there have been no appeals filed in the Office of the City Clerk, or  
\_\_\_\_\_ any appeals that were filed have been finally dismissed or denied.

**FOR SPECIAL PERMIT(S) WITHIN**

\_\_\_\_\_ there have been no appeals filed in the Office of the City Clerk, or  
\_\_\_\_\_ there has been an appeal filed.

**FOR SITE PLAN APPROVAL(S) WITHIN**

\_\_\_\_\_ there have been no appeals filed in the Office of the City Clerk, or  
\_\_\_\_\_ there has been an appeal filed.

Signed \_\_\_\_\_ City Clerk Date \_\_\_\_\_